

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

## HOUSE ENROLLED ACT No. 1200

AN ACT to amend the Indiana Code concerning health.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 16-18-2-91.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 91.3. "Data aggregation" has the meaning set forth in IC 16-39-5-3(b).**

SECTION 2. IC 16-18-2-168, AS AMENDED BY P.L.127-2001, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 168. (a) "Health records", for purposes of IC 16-39, means written, electronic, or printed information possessed by a provider concerning any diagnosis, treatment, or prognosis of the patient. The term includes mental health records and alcohol and drug abuse records.

(b) For purposes of ~~IC 16-39-5-3(d)~~, **IC 16-39-5-3(e)**, the term includes information that describes services provided to a patient and a provider's charges for services provided to a patient.

(c) The term does not include information concerning emergency ambulance services described in IC 16-31-2-11(d).

SECTION 3. IC 16-21-6-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 6. ~~(a)~~ In addition to the report filed under section 3 of this chapter, each hospital shall, **not more than one hundred twenty (120) days after the end of each calendar quarter**, file with the state department, ~~before May 1 of each year~~ a report for the hospital's preceding calendar year disclosing the

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following or the state department's designated contractor, inpatient and outpatient discharge information on a form at the patient level, in a format prescribed by the state health commissioner, including the following:

(1) The number of inpatient and outpatient admissions and discharges by patient, diagnosis including:

- (A) Medicare admissions;
- (B) Medicaid admissions;
- (C) admissions under a local government program;
- (D) charity care admissions; and
- (E) any other type of admission.

(2) (1) The average patient patient's:

- (A) length of stay; by patient diagnosis;
- (B) diagnoses and surgical procedures performed during the patient's stay;
- (C) date of:
  - (i) admission;
  - (ii) discharge; and
  - (iii) birth;
- (D) type of admission;
- (E) admission source;
- (F) gender;
- (G) race;
- (H) discharge disposition; and
- (I) payor, including:
  - (i) Medicare;
  - (ii) Medicaid;
  - (iii) a local government program;
  - (iv) commercial insurance;
  - (v) self-pay; and
  - (vi) charity care.

(2) The total charge for the patient's stay.

(3) Average charge for each discharge by patient diagnosis: The ZIP code of the patient's residence.

(4) Daily room rates:

(5) Number of primary surgical procedures:

(b) The data required to be disclosed under subsection (a) shall be reported for each major payor category, including Medicare, Medicaid, and private paying patients:

SECTION 4. IC 16-21-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 7. (a) The reports filed under sections section 3 and 6 of this chapter:



(1) may not contain information that personally identifies a patient or a consumer of health services; and

(2) must be open to public inspection.

(b) The state department shall provide copies of the reports **filed under section 3 of this chapter** to the public upon request, at the state department's actual cost.

**(c) The following apply to information that is filed under section 6 of this chapter:**

**(1) Information filed with the state department's designated contractor:**

**(A) is confidential; and**

**(B) must be transferred by the contractor to the state department in a format determined by the state department.**

**(2) Information filed with the state department or transferred to the state department by the state department's designated contractor is not confidential, except that information that:**

**(A) personally identifies; or**

**(B) may be used to personally identify;  
a patient or consumer may not be disclosed.**

**(d) An analysis completed by the state department of information that is filed under section 6 of this chapter:**

**(1) may not contain information that personally identifies or may be used to personally identify a patient or consumer of health services, unless the information is determined by the state department to be necessary for a public health activity;**

**(2) must be open to public inspection; and**

**(3) must be provided to the public by the state department upon request at the state department's actual cost.**

SECTION 5. IC 16-39-5-3, AS AMENDED BY P.L.231-1999, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) As used in this section, "association" refers to an Indiana hospital trade association founded in 1921.

**(b) As used in this section, "data aggregation" means a combination of information obtained from the health records of a provider with information obtained from the health records of one (1) or more other providers to permit data analysis that relates to the health care operations of the providers.**

**(c) Except as provided in IC 16-39-4-5, the original health record of the patient is the property of the provider and as such may be used by the provider without specific written authorization for legitimate business purposes, including the following:**

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- (1) Submission of claims for payment from third parties.
- (2) Collection of accounts.
- (3) Litigation defense.
- (4) Quality assurance.
- (5) Peer review.
- (6) Scientific, statistical, and educational purposes.

~~(c)~~ (d) In use under subsection ~~(b)~~, (c), the provider shall at all times protect the confidentiality of the health record and may disclose the identity of the patient only when disclosure is essential to the provider's business use or to quality assurance and peer review.

~~(d)~~ (e) A provider may disclose a health record to another provider or to a nonprofit medical research organization to be used in connection with a joint scientific, statistical, or educational project. Each party that receives information from a health record in connection with the joint project shall protect the confidentiality of the health record and may not disclose the patient's identity except as allowed under this article.

~~(e)~~ (f) A provider may disclose a health record or information obtained from a health record to the association for use in connection with a voluntary ~~scientific, statistical, or educational~~ **data aggregation** project undertaken by the association. However, the provider may disclose the identity of a patient to the association only when the disclosure is essential to the project. The association may disclose the information it receives from a provider under this subsection to the state department to be used in connection with a voluntary ~~scientific, statistical, or educational~~ **project undertaken jointly by the association and the state department if the association and the state department have agreed to the project's scope, nature, and duration: public health activity**. The information disclosed by:

- (1) a provider to the association; or
- (2) the association to the state department;

under this subsection is confidential.

~~(f)~~ (g) Information contained in final results obtained by the state department for a voluntary ~~scientific, statistical, or educational~~ **project undertaken jointly by the state department and the association public health activity** that:

- (1) ~~uses is based on~~ information disclosed under subsection ~~(e)~~ (f); and
- (2) identifies or could be used to determine the identity of a patient;

is confidential. All other information contained in the final results is not confidential.



~~(g)~~ **(h)** Information that is:

- (1) advisory or deliberative material of a speculative nature; or
- (2) an expression of opinion;

including preliminary reports produced in ~~the course of a voluntary scientific, statistical, or educational project undertaken jointly by the state department and the association~~ **connection with a voluntary public health activity** using information disclosed under subsection ~~(e)~~ **(f)**, is confidential and may only be disclosed by the state department to the association and to the provider who disclosed the information to the association.

**(i) The association shall, upon the request of a provider that contracts with the association to perform data aggregation, make available information contained in the final results of data aggregation activities performed by the association.**

~~(h)~~ **(j)** A person who recklessly violates or fails to comply with subsections ~~(d)~~ **(e)** through ~~(g)~~ **(h)** commits a Class C infraction. Each day a violation continues constitutes a separate offense.

~~(i)~~ **(k)** This chapter does not do any of the following:

- (1) Repeal, modify, or amend any statute requiring or authorizing the disclosure of information about any person.
- (2) Prevent disclosure or confirmation of information about patients involved in incidents that are reported or required to be reported to governmental agencies and not required to be kept confidential by the governmental agencies.

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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

Approved: \_\_\_\_\_

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Governor of the State of Indiana

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